

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MARYLAND  
(Baltimore Division)**

In re: Melvin Smith, Jr. \* Case No. 09-31442  
Debtor. \* Chapter 13

\* \* \* \* \*

**MOTION TO DIRECT PAYMENT**

NOW COMES Counsel, Jeffrey M. Sirody, Esq., and the Law Firm of Sirody, Freiman & Feldman, P.C., and moves this Court to direct that certain funds held by the Chapter 13 Trustee be paid to Counsel, and states:

1. The Debtor filed for Relief under Chapter 13 of the Bankruptcy Code on July 29, 2009. Pursuant to the 2016(b) filed with the Court, Counsel charged a flat fee for representation of \$3,500.00, of which \$1,500.00 was paid before the case was filed. The Chapter 13 Plan proposed and filed provided for the payment of the balance of attorney's fees through the Plan.
2. That on June 5, 2010 this Honorable Court issued an Order Denying Confirmation of the Chapter 13 Plan without Leave to Amend.
3. As of the date of the filing of this Motion, the Chapter 13 Trustee was holding \$2,098.00 in Debtor payments.
4. Counsel requests that the Chapter 13 Trustee pay Counsel directly from the monies she is holding towards the balance of attorney's fees due, and, if the monies she is holding are in excess of the total fees, to refund the balance of the funds to the Debtor.
5. Pursuant to 11U.S.C. § 330(a)(4)(B), "In a Chapter 12 or Chapter 13 case in which the Debtor is an individual, the Court may allow reasonable compensation to the debtor's attorney for representing the interests of the debtor in connection with the bankruptcy case based on a consideration of the benefit and necessity of such services to the Debtor and the other factors set forth in this section." Therefore, in a Chapter 13 case, Debtor's Counsel is within the scope of § 330(a), and as counsel fees are administrative expenses, they are entitled to payment directly from funds held by the Chapter 13 Trustee.
6. Pursuant to a Retainer Agreement, Debtor has assigned his interest in the funds held by the Trustee to the extent that Counsel is still owed fees or expenses. The Agreement provides in pertinent part, "If a . . . Trustee remits funds to the Attorney, which are payable to the Client, the Client hereby authorizes the

Attorney to . . . deposit them into the Attorney's escrow account. The Client further gives the Attorney an absolute power . . . to apply said funds for any expense . . . or to apply said funds to any balance owed . . .”

7. The balance owed under the Agreement is \$2,000.00. It was a flat fee agreement/contract. Paragraph 4(B) of Appendix F creates a rebuttable presumption that a flat fee, not to exceed \$4,500.00 is presumed reasonable. As stated above, the client has paid only \$1,500.00 up front, leaving \$2,000.00 unpaid. Payment of the \$2,000 to Counsel by the Trustee will satisfy the flat fee agreement/contract, and be less than the quantum meruit fee demonstrated in the time sheets attached as Exhibit A.
8. Counsel respectfully submits and hereby affirms to the Court that the fees for the legal services expended and the legal services performed on behalf of the Debtor were both reasonable and necessary, based on the customary compensation charged by Counsel and other comparably skilled attorneys. Counsel further submits for the purposes of this Motion, that the flat fee analysis of paragraph 4(B) of Appendix F is a proper and equitable basis on which this Court may make an allowance for fees.
9. Counsel has made no allowance for sharing of compensation with any third party.

WHEREFORE, Counsel prays that the Court order the Chapter 13 Trustee to pay the fees requested in this application directly to Counsel from the payments held by the Chapter 13 Trustee.

Respectfully submitted,

SIRODY, FREIMAN & FELDMAN, P.C.

By: /s/ Jeffrey M. Sirody  
Jeffrey M. Sirody, # 11715  
Sirody, Freiman, and Feldman, PC  
1777 Reisterstown Road, Ste 360E  
Baltimore MD 21208

#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this June 12, 2010, a copy of the foregoing Motion to Direct Payment was delivered by electronic means to:

Case Trustee

US Trustee

and mailed, first class, postage prepaid to: all creditors on attached matrix, and the Debtor.

/s/ Jeffrey M. Sirody  
Jeffrey M. Sirody

Ellen Myles-Wilson, Case#: 09-31442

Creditors

American Medical Collection Agency  
2269 South Saw Mill River Rd  
Elmsford, NY 10523

Assetcare, Inc.  
5100 Peachtree Industrial  
Norcross, GA 30071

At&T Credit Management  
Po Box 721440  
Norman, OK 73070

BG &E  
PO Box 1431  
Baltimore, MD 21203

BGE Home  
P.O. Box 43720  
Nottingham, MD 21236

Bureau of Treasury Management  
Collection Division  
200 Holliday Street  
Baltimore, MD 21202

Chase Home Finance LLC  
10790 Rancho Bernardo Rd  
San Diego, CA 92127

Chase Manhattan Mortga  
10790 Rancho Bernardo Rd  
San Diego, CA 92127

City of Baltimore  
Metered Water Bill  
200 Holiday Street  
Baltimore, MD 21202

Comptroller of Maryland  
Revenue Admins Division  
Annapolis, MD 21411

Comptroller of the Treasury  
Compliance Division, Room 409  
301 W. Preston Street  
Baltimore, MD 21201

D.P. Malayaman MD  
4001 Wilkens Ave  
Baltimore, MD 21229

Drive Financial  
PO Box 560284  
Dallas, TX 75266

GC Services  
4777 Hilton Corp Drive  
Columbus, OH 43232

Golden Eagle 2008, LLC  
c/o James F. Truitt, Jr.  
20 E Timonium Road, Ste. 101  
Timonium, MD 21093

IRS  
PO Box 219690  
Kansas City, MO 64121-9698

Municipal Office Building  
Tax Sale Unit  
Room # 1  
200 Holliday Street  
Baltimore, MD 21202

Nco Fin/51  
Pob 13574  
Philadelphia, PA 19101

Nco Fin/51  
Incomplete Address Provided

NCO Financial Systems  
507 Prudentail Rd  
Horsham, PA 19044

Radiation Oncology Affiliates  
Attn: Jane Gansler  
9105 Franklin Square Drive  
Ste 100  
Rosedale, MD 21237-3930

Rjm Acq Llc  
575 Underhill Blvd Suite 224  
Syosset, NY 11791

Roam P,A  
9105 Franklin Sq Dr  
Suite 100  
Rosedale, MD 21237

Sallie Mae, Inc. on behalf of USA Funds  
Attn: Bankruptcy Litigation Unit E3149  
PO Box 9430  
Wilkes-Barre, PA 18773-9430

Santander Consumer USA  
PO Box 560284  
Dallas, TX 75356-0284

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St. Joseph Medical Center  
P.O. Box 644163  
Pittsburgh, PA 15264

St. Joseph Physician Enterprise  
P.O. Box 79944  
Baltimore, MD 21278

State of Maryland DLLR  
Division of Unemployment Insurance  
1100 N. Eutaw Street, Room 401  
Baltimore, MD 21201

Supervisor of Delin. Accts.  
Rm. 1 Municipal Building  
Holliday & Lexington Streets  
Baltimore, MD 21202

U S A Funds  
Po Box 6180  
Indianapolis, IN 46206